

**TOWN OF DRACUT
BY LAWS**

**CHAPTER 16
TRANSIENT VENDORS, HAWKERS AND PEDDLERS**

Section 1. A "transient vendor" shall be any person either principal or agent who engages in a temporary or transient business in the commonwealth selling goods, wares or merchandise, either on one locality or in traveling from place to place.

Section 2. Every transient vendor, before making any sale of goods, wares or merchandise in the town, shall apply to the Board of Selectmen for a license, and shall accompany such application with a license fee which shall be set from time to time and which fee is on file in the Town Clerk's Office. If, after review of said application, it appears that the applicant is a person of good repute as to morals and integrity and he/she is a person of responsibility and business acumen, the Board of Selectmen may authorize the Town Clerk to issue a license to the applicant, which license shall remain in force and effect for not more than ninety (90) calendar days from day of issuance, and shall be renewable every ninety (90) days thereafter.

Section 3. A transient vendor license shall be required notwithstanding the fact that goods, wares or merchandise are to be sold or offered for sale from any private property within the town. In the case of any such sale or offer for sale from private property, the owner of the property shall be required to obtain a license for such purpose in like manner and the same fee as a transient vendor.

Section 4. State Law reference-municipal authority to require transient vendor's license, M.G.L.A. c.101,#5.

Section 5. A "hawker" or "peddler" shall mean and include any person either principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares or merchandise, either on foot on or from any animal or vehicle.

Section 6. No hawker or peddler shall sell, offer or expose for sale any goods, wares or merchandise, including without limitation real, artificial, permanent, temporary, wild cultivated or uncultivated flowers or flowering plants whether

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from any street, sidewalk or private property, unless such hawker or peddler has posted a bond with the Town Clerk in an amount to be determined by the Town Manager, or has otherwise provided to the Town Clerk a satisfactory indemnity sufficient to protect the town against any suit, action or proceeding in which the Town may be a party as a result of any act on the part of such hawker or peddler while operating within the territorial limits of the Town. The bond or indemnity specified above shall be subject to approval of the Town Counsel before it shall be deemed accepted or satisfactory.

Section 7. In addition, any hawker or peddler who sells, offers or exposes for sale, any goods, wares or merchandise in such a manner, in the opinion of the Chief of Police, so as to impede the flow of vehicular or pedestrian traffic, or to create a health or safety hazard or a public nuisance, shall be prohibited from operating within the town. The Chief of Police shall promulgate a list of locations in the town where any hawking or peddling shall be expressly prohibited. In locations where hawking or peddling is allowed, the Chief of Police may require the presence of a paid police detail to preserve the public safety or welfare.

Section 8. The provisions of this section shall not apply to any nonprofit corporation duly organized under Chapter 180 of the General Laws: provided, that any officer of such corporation supplies the Town Clerk with official proof of such organization.

Section 9. The Board of Selectmen shall have authority to grant hawker or peddler's license to any person of good reputation for morals and integrity who is a citizen of the United States or has formally declared his intention to become a citizen., Licenses shall bear date of the day on which they are issued and unless sooner revoked, shall expire on the ninety-first (91st) day after date of issuance and shall be renewable every ninety (90) days thereafter.

Section 10. Any hawker's or peddler's license granted by the Board of Selectmen may be revoked by the Board of Selectmen at any time for cause sufficient in law.

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Section 11. Every hawker or peddler shall exhibit has license or certificate of registration when the same is demanded of him by a selectmen or his representative or sealer of weights and measures or member of the Police Department of the town.

Section 12. No person shall be licensed or registered under this article as a hawker or peddler until he presents to the Board of Selectmen a statement from the sealer of weights and measures that all weighing and measuring devices intended to be used by such person have been duly inspected and sealed as required by law.

Section 13. Nothing in this article shall be construed as conflicting with any license duly issued under the laws of the commonwealth.

Article 9 - November 8, 1993

Atricle 4 - November 5, 2001

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CHAPTER 17 - Deleted - Article 12, October 7, 2002 Town Meeting
Added - Article 10, November 8, 1993 Town Meeting

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CHAPTER 18

WETLANDS PROTECTION

I. Purpose

The purpose of this By-Law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Dracut by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, shellfish, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, M.G.L. Chapter 131 Section 40 and Regulations thereunder, 310 CMR 10.00.

II. Jurisdiction

Except as permitted by the Conservation Commission pursuant to this by-law, or as otherwise allowed in this bylaw, no person shall fill, dredge, build upon, degrade, discharge into or otherwise alter any Resource Area or Buffer Zone as defined in Section XI of this bylaw. It shall be assumed that significant adverse effect on the wetland values protected by this bylaw will result from any filling, dredging, building or other alteration within a Resource Area, land subject to flooding or inundation by groundwater or surface water, or within 50 feet of the edge of any freshwater wetland, vernal pool, bank, reservoir, pond of any size, land under waterbodies, or any marsh, wet meadow, bog or swamp. Said resource areas shall be protected whether or not they border surface waters.

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The construction of any building may be prohibited within 50 feet of any bank, fresh water wetland, beach, flat, marsh, wet meadow, bog, swamp or lands bordering or on any estuary, creek, river, stream, or lake or any land under said waters.

Construction of a building shall not include any reconstruction, alteration, extension or structural change to a building existing on November 8, 1993.

III. Conditional Excepts

The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications adopted by the Commission.

The application and permit required by this bylaw shall not be required for work performed or for normal maintenance or improvement of land which is lawfully in agricultural use (as defined in M.G.L. Chapter 131 Section 40 and Regulations 310 CMR 10.00), at the time the work takes place; provided that when there is doubt as to whether or nor an agricultural activity is exempt, written notice shall be given to the Commission prior to commencement of work and be subject to the Determination of Applicability process.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the works as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purpose necessary to abate the emergency; and provided that within 21 days of commencement of

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an emergency project, a permit application shall be filed with the commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetland Protection Act, M.G.L. Chapter 131, Section 40, and Regulations, 310 CMR 10.00, shall not apply under this bylaw.

IV. Applications for Permits and Requests for Determination

Written application shall be filed with the Commission to perform such activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. NO activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, M.G. L Chapter 131, Section 40, and Regulations, 310 Cmr 10.00.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing, request a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission.

Upon receipt of a permit application or RFD, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the consultant fee. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysts, and environmental or land use law.

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The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or RFD filed by a government agency.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings.

The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

V. Notice and Hearings

The Commission shall conduct a public hearing on any permit application or RFD, with a written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from the receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, M.G. L. 131, Section 40, and Regulations, 310 CMR 10.00.

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The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in VI.

VI. Coordination with Other Boards

Any person filing a permit application or filing a request for determination of applicability with the Commission may be required to provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Board of Selectmen, Planning Board, Board of Health, the Building Inspector, and Town Engineer. The Commission shall consider any and all comments as they are submitted within the statutory time limits of M.G. L. Chapter 131, Section 40. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

VII. Permits and Conditions

If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the designs specifications, performance standards, and other requirements in regulations of the Commission; for failure

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to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

The Commission is empowered to require the use of the 1987 Army Corps of Engineers Wetlands Delineation Method, Section F. "Atypical Situations" in some instances where conditions exist that preclude the use of the Massachusetts delineation method using vegetation as a wetlands indicator.

Such instances include but are not limited to disturbed sites, filled wetlands, or naturally occurring events that result in the creation or alteration of wetlands.

To prevent wetlands losses, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetland as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

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For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to V and VI, and a public hearing.

The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and Regulations, 310 CMR 10.0.

No work in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

VIII. Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the proposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

IX. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term "Commission" shall mean the Conservation Commission of the Town of Dracut.

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The term "person" shall include any individual, group or organization, association, partnership, corporation, company, business trust or estate, any federal, state, regional, county or quasi-public corporation or body, including the Town of Dracut, and any other legal entity. The term "Resource Area" shall mean: ANY freshwater wetland, marsh, wet meadow, bog or swamp, whether or not bordering a lake, stream and the land beneath any lake, river, pond or stream; or any land subject to flooding or inundation by groundwater or surface water with a frequency of at least once in one hundred years. The term Resource Area shall include, without limitation, any area in which the vegetational community is predominantly composed of plant species listed as facultative or obligate hydrophytes in Wetland Plants of the State of Massachusetts, 1986, issued by the National & Regional Wetland Plant List Review Panels.

The term "Buffer zone" shall mean any land within 100 feet from the edge of any freshwater wetland, marsh, wet meadow, bog or swamp, whether or not bordering a lake, river, pond or stream, and any land within 100 feet from the top of the bank of any lake, river, pond, or stream.

The term "bank" shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term "vernal pool" shall include a confined basin depression which, at least most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the areas within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

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The term "rare species" shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Wildlife and Fisheries, regardless of whether the site in which they occur has been previously identified by the Division.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation or dredging of soil, sand gravel, or aggregate materials of any kind;
- B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, and/or flood retention characteristics;
- C. Drainage or other disturbance of water levels or water table;
- D. Dumping, discharging or filling with any material which may degrade water quality;
- E. Placing of fill, or removal of material, which would alter elevation;
- F. Driving of piles, erection or repair of buildings, or structures of any kind, except (i) work wholly inside a building and (ii) exterior repair of existing structures or buildings which present no risk of alteration of land, water, or vegetation;
- G. Placing of obstructions or objects in water;
- H. Destruction of plant life, including cutting of trees;
- I. Changing temperature, biochemical oxygen demand, or other physical, biological or chemical characteristics of any waters;
- J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater, including without limitation, any activity which may cause surface water runoff contaminated with sediments, chemicals, or animal wastes.
- K. Application of pesticides or herbicides;

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- L. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

Except as otherwise provided in this bylaw or in regulations of the Commission, the definition of terms in this bylaw shall be set forth in the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and Regulations, 310 CMR 10.00.

X. Security

As part of a permit issued under this bylaw, in addition, to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon the issuance of a Certificate of Compliance for work performed pursuant to the permit.
- B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XI. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place authorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

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The Commission, its agent, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examination, surveys or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have the authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined or both.

Upon request of the Commission, the Board of Selectmen and Town Counsel shall take legal action for the enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for the enforcement under civil law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits or enforcement orders issued thereunder, shall be punished by a fine of not more than \$300.00. each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or enforcement orders violated shall constitute a separate offense.

XII. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

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XIII. Appeals

A decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L. Chapter 249, Section 4.

XIV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, Regulations, 310 CMR 10.00, thereunder.

XV. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

AMENDMENTS - CHAPTER 18:

Chapter 18 - Added - Article 25 - Annual Town Meeting,
November 8, 1993

Section VI - Amended - Article #8 - Annual Town Meeting,
November 13, 1995

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CHAPTER 19

NON-CRIMINAL DISPOSITION

Section 1 - PENALTY FOR VIOLATIONS:

The penalty for violation of any ordinance, by-law, rule, or regulation made hereunder shall be not less than \$25.00 for the 1st offense and not less than \$50.00 for the 2nd and any subsequent offense, or as otherwise specified in the Town of Dracut By-Laws.

Section 2 - NON-CRIMINAL DISPOSITION OF VIOLATIONS OR ANY ORDINANCE, BY-LAW OR REGULATIONS OF ANY MUNICIPAL OFFICER, BOARD OR DEPARTMENT:

Any person, taking cognizance of a violation of a specific ordinance, by-law, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may pursuant to Chapter 40, Section 21D, or Massachusetts General Laws, give the offender a written notice to appear before the clerk of the District Court of Lowell, or any other Court having jurisdiction thereof, at any time during the office hours, not later than twenty-one (21) days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense, charged, and the time and place of this required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable, in acknowledgment that such notice has been received. The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department head to the offender's last know address, within fifteen days after said violation. Such notice as so mailed shall be deemed sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

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At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such violation he has taken cognization of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such deliver or mailing, deliver the other copy to the Clerk of Court before which the offender has been notified to appear. The Clerk of District Court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the Clerk of a District Court herein before provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the Town Clerk of the municipality within which the violation occurred together with the notice such specific sum of money not exceeding three hundred dollars (\$300.00) as the Town shall fix as penalty for violation of the ordinance, by-law, rule or regulation. Such payment shall, if mailed, be made only by postal note, money or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the District Court Clerk of such payment and the receipt by the District Court Clerk of such notification shall operate as final disposition of the case. An appearance under this paragraph shall not be deemed to be criminal proceeding. No person so notified to appear before the Clerk of a District Court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records. If any person so notified to appear desires to contest the violations alleged in the notice to appear, he may avail himself of the procedure established in said Chapter 40 Section 21D.

Added - Article 20 - October 4, 1999

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CHAPTER 20

COMMUNITY PRESERVATION ACT:

ARTICLE #1 - Special Town Meeting - February 26, 2001

The Town voted to accept General Laws Chapter 44B, sections 3-7, known as the Community Preservation Act, which establishes a special "Community Preservation Fund" that may be appropriated and spent for certain open space, historic resources and affordable housing purposes and to approve a property tax surcharge that shall be in the amount of two percent (2%) of the taxes assessed annually on real property and shall be in the fund, such surcharge to be imposed on taxes assessed for fiscal years beginning on or after July 1, 2001, and to exempt from the surcharge the following:

Property owned and occupied as a domicile by a person who would qualify for low-income housing or low or moderate income senior housing in the community.

COMMUNITY PRESERVATION COMMITTEE

20.1 Establishment; appointment of members; membership; terms of office

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members, pursuant to the provisions of MGL, Ch.44B, Sec.5, whose purpose is to make recommendations to the Town Meeting for community preservation. The composition of the Committee, the appointing authority and the terms of office for the Committee Members shall be as follows:

A. Membership

- (1) One member of the Conservation Commission established under Section 8C of Chapter 40 as designated by the Commission;
- (2) One member of the Recreation Commission established under Section 2 of Chapter 45 as designated by the Commission;
- (3) One member of the Historical Commission established under Section 8D of Chapter 40 as designated by the Commission;
- (4) One member of the Planning Board established under Section 81A of Chapter 41 as designated by the Board;

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- (5) One member of the Housing Authority established under Section 3 of Chapter 121B as designated by the Authority;
 - (6) Four members appointed by the Board of Selectmen, all of whom must be Town Residents.
- B. Each member of the Committee shall serve for a term of three years or until the person no longer serves on the Board or Commission that made his or her appointment, whichever is earlier. The members of the Committee may be reappointed for as many terms as authorized by the appointing authority. The members of the Committee may choose to elect their own Chairman who shall serve as Chairman until the Committee elects a successor.
- C. Should any of the Boards, Commissions or Authorities listed in this section no longer be in existence for whatever reasons, the Town Manager shall appoint a suitable person to serve in his or her place.
- D. Any member of the Committee may be removed for cause by his or her respective appointing authority after a hearing.

20.2 Duties

- A. The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Recreation Commission, the Planning Board and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of this study, the Committee shall hold a minimum of one annual public informational hearing on the needs, possibilities and resources of the town regarding community preservation. Notice of the scheduled hearing(s) shall be posted publicly and published for each of two consecutive weeks preceding a hearing in a newspaper of general circulation in the town.
- B. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation, preservation of land for recreational use, for the acquisition, creation, preservation and support of affordable community housing and for the rehabilitation or restoration

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of such open space, historic resources, land for recreational use and affordable community housing that is acquired or created as provided in this section. With respect to affordable community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

- C. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside (for later spending) funds for specific purposes that are consistent with community preservation but which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside (for later spending) funds for general purposes that are consistent with community preservation.
- D. In every fiscal year, the Community Preservation Committee must recommend either that the Town Meeting spend or set aside for later spending not less than 10% of the annual revenues in the Community Preservation Fund for:
 - (1) Open Space (not including land for recreational use);
 - (2) Historic resources; and
 - (3) Affordable Community Housing
- E. The Community Preservation Committee may submit an annual administrative and operating budget, which can not exceed five percent (5%) of annual revenues in the Community Preservation Fund, to the Town Manager in accordance with the provisions in the Town's Charter.

20.3 Conduct of meetings; approval of actions; cost estimates.

- A. The Community Preservation Committee shall comply with the provisions of Open Meeting Law, MGL Ch. 39, Sec. 23B. The Committee shall not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee.
- B. The Community Preservation Committee shall approve its actions by a majority vote.
- C. All recommendations to the Town Meeting shall include the Committee's anticipated costs

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20-4 Amendments.

This chapter may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of MGL Ch.44B

20-5 Severability.

In case any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

20-6 Effective Date.

This chapter shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of MGL Ch. 40, Sec.32 have been met. Each appointing authority shall have thirty (30) days after approval by the Attorney General to make its appointments.

Article 22 - June 4, 2001

TBL Updated through November 7, 2005